Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of Application of Verizon New Jersey, Inc., BellAtlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a/ Verizon Enterprise Solutions), Verizon Global Networks, Inc., and Verizon Select Services, Inc., for Authorization to Provide In-Region InterLata Services in New Jersey	)))))))))	CC Docket No. 01-347

COMMENTS OF CAVALIER TELEPHONE MID-ATLANTIC, L.L.C.

Pursuant to the Commission's Public Notice, Cavalier Telephone Mid-Atlantic, LLC ("Cavalier") respectfully submits these comments in opposition to the application of Verizon for authorization to provide in-region, interLATA services in New Jersey.

SUMMARY

Cavalier's parent company was founded in late 1998 and first began providing facilities-based local telephone services in July 1999 in Virginia, where it now serves over 150,000 access-line equivalents. Like its parent company, Cavalier focuses on the provision of facilities-based residential local telephone service to both residential and business customers in the mid-Atlantic region of New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. Cavalier provides that service by purchasing unbundled loops ("UNE-L") from Verizon and connecting those loops to Cavalier's own network and switches.

As explained by Cavalier in its comments opposing Verizon's first Application, Cavalier's UNE-L facilities-based local entry strategy requires Cavalier to purchase a "hot cut" from Verizon for each line that Cavalier acquires. The hot cut rates in Verizon's initial application (over $150) were plainly above TELRIC levels. Verizon has now arbitrarily lowered those hot cut rates to $35. But even those rates are still too high, and well above the hot cut rates in other states where Cavalier provides residential facilities-based services. *See* Snyder Decl. ¶ 9 & n. 3. Accordingly, Verizon should be required to lower its hot cut rates to TELRIC levels rather than simply offering arbitrary reductions from its vastly inflated "initial offer."

In any event, Verizon's second application leaves untouched Verizon's refusal to fairly compensate Cavalier for Verizon-originated traffic hauled by competitive local exchange carriers. As detailed below, Cavalier has installed efficient end-office network POIs with Verizon, at Verizon's request, providing residential and business customers with an additional choice of local telephone service providers. The Commission's rules and the Cavalier/Verizon interconnection agreement require Verizon to compensate Cavalier for the Verizon-originated traffic that Cavalier carries. Verizon has refused to do that, thereby violating Commission rules, violating the Verizon/Cavalier ICA, and threatening the continued seamless integration of Verizon's and Cavalier's networks and the future existence of Cavalier in Verizon's local markets.

I. VERIZON REFUSES TO COMPLY WITH ITS OBLIGATION TO COMPENSATE CAVALIER FOR TRAFFIC HAULED BY CAVALIER IN VIOLATIONS OF CHECKLIST ITEMS 1 AND 13.

As explained by Cavalier in opposition to Verizon's first Section 271 Application for New Jersey, Verizon refuses to compensate Cavalier for Verizon traffic that is hauled by Cavalier. That refusal plainly violates Checklist Items 1 and 13. The Commission's rules "require an incumbent LEC to allow a competitive LEC to interconnect at any technically feasible point," *Texas 271 Order* ¶ 78, and further "require that an incumbent LEC compensate the [interconnecting]. . . carrier for transport and termination for local traffic that originates on the network facilities of such other carrier." *Kansas/Oklahoma 271 Order* ¶ 235. Verizon has allowed Cavalier to interconnect, but in many cases has refused to pay Cavalier for hauling Verizon originated traffic from the Point of Interface ("POI") and back to Cavalier's switch, *i.e.*, over Cavalier's network, as it is required to do under the Commission's rules.[1] At the same time, Verizon insists on payment for Cavalier originated traffic hauled over Verizon's transport to Verizon's end user customers. Given Verizon's refusal to comply with its clear obligations under the Act and the Commission's implementing rules, Verizon has failed to provide nondiscriminatory access to interconnection and reciprocal compensation. Thus, Verizon's application must be denied.

Consistent with the Commission's rules, the Cavalier/Verizon ICA provides that the Interconnection Point is "the point at which a Party who receives traffic

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[1] The interconnection arrangement between Cavalier and Verizon in New Jersey is shown in Exhibit A (attached). As indicated on that Attachment, Cavalier has multiple POI's in New Jersey where it has collocated facilities at a Verizon wire center. Cavalier's switch however is located in Newark, Delaware.

[Cavalier] originating on the network of the other Party [Verizon] assesses Intercarrier Compensation Charges *for the further transport and termination of that traffic.*" (Emphasis added). ICA at Section 1.40 (attached as Exhibit B). The ICA goes on to state that "The Originating Party must establish direct trunking to a Receiving Party's End Office (which may have Tandem-routed overflow) by self-provisioning, *purchasing transport rated as unbundled interoffice transport from the Receiving Party.*" ICA at Section 04.2.4. Thus, there is no question that under both the Commission's rules and under the Cavalier/Verizon ICA, Verizon is required to compensate Cavalier for traffic that is originated by Verizon and that is carried by Cavalier from this physical interconnection point back to Cavalier's switch.

Despite its clear obligation, Verizon has in many cases simply refused to pay for the transport received from Cavalier. Cavalier's efforts – including attempts at negotiations – to obtain the transport charges owed by Verizon have (so far) failed. On January 4, 2002 Cavalier formally notified Verizon that Verizon is in default of its interconnection agreement with Cavalier, and that the agreement may be subject to termination. In response to this letter, Verizon filed and emergency petition with the Delaware state commission seeking to stop Cavalier from carrying out its legal right to cease hauling Verizon's traffic. Cavalier has counterclaimed for payment, and the Delaware state commission has assigned the matter to a hearing examiner for further investigation. This conflict represents a serious matter for a new entrant. Cavalier has interconnected its network to accommodate Verizon's needs for additional transport capacity. Verizon has ordered millions of dollars of transport service from Cavalier but refuses to pay compensation for this service.[2] However, Verizon demands that Cavalier pay for leased transport over Verizon's network, as indicated in Exhibit C. When Verizon withholds payment of millions of dollars from a new entrant, the financial impact to the new entrant can be financially devastating. Even worse, Verizon's strategy distorts the interconnection obligations and reciprocal duties envisioned in the Act and the Commission's Rules.

As a final matter, Cavalier is not seeking to have Verizon comply with a hypothetical or proposed rule. Rather, Cavalier expects Verizon to comply with the Commission's *current rule* that incumbent LECs, like Verizon, are required to compensate interconnecting carriers for transport. *See Memorandum Opinion and Order, Joint Application of SBC Communications, Inc., et al, for Provision of In-Region InterLATA Services in Kansas and Oklahoma,* ¶ 235 *CC Dkt. No. 00-217* (rel. Jan. 22, 2001); Memorandum Opinion and Order, *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd. 3953, ¶ 78 (1999).[3]

The bottom line is this: Cavalier has installed, at Verizon's request, efficient end-office network POIs, providing residential and business customers with an

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[2] Undercutting Verizon's position further is the fact that Verizon paid Cavalier millions of dollars in leased transport throughout 1999, without dispute, and in conformance with the Commission's rules. Only in 2000 did Verizon unjustifiably stop payments altogether, despite its failure to make alternative arrangements for the transport of its traffic to New Jersey customers.

[3] The Commission's intercarrier compensation proceeding is addressing compensation matters associated with a "single point of interconnection." Under the operable Interconnection Agreement in New Jersey, Cavalier has established multiple physical points of presence, at Verizon's request, but at great expense to Cavalier.

additional choice for local telephone services. Verizon's actions threaten the continued seamless integration of Verizon and Cavalier's networks and the future existence of Cavalier in Verizon's local markets. Verizon's conduct violates Checklist Items 1 and 13.

CONCLUSION

For the foregoing reasons, Verizon's second Section 271 Application should be denied.

Respectfully submitted,

/s/ Stephen T. Perkins

Stephen T. Perkins
Alan M. Shoer
Cavalier Telephone
2134 West Laburnum Avenue
Richmond, VA 23227
(804) 422-4515

Attorneys for Cavalier Telephone Mid-Atlantic, LLC

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SERVICE LIST

William F. Caton
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554[4]

Janice Myles
Policy and Program Planning Division
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Qualex International
Portals II
445 12th Street, SW, Room CY-B402
Washington, D.C. 20554

John M. Lynch
U.S. Department of Justice
Antitrust Division
Telecommunications Task Force
1401 H Street, NW, Suite 8000
Washington, D.C. 20530

Anthony Centrella, Director
Division of Telecommunications
New Jersey Board of Public Utilities
Two Gateway Center, 8th Floor
Newark, NJ 07102

Michael E. Glover
Karen E. Zacharia
Leslie V. Owsley
Donna M. Epps
Joseph P. DiBella
Verizon
1515 North Courthouse Road, Suite 500
Arlington, VA 22201

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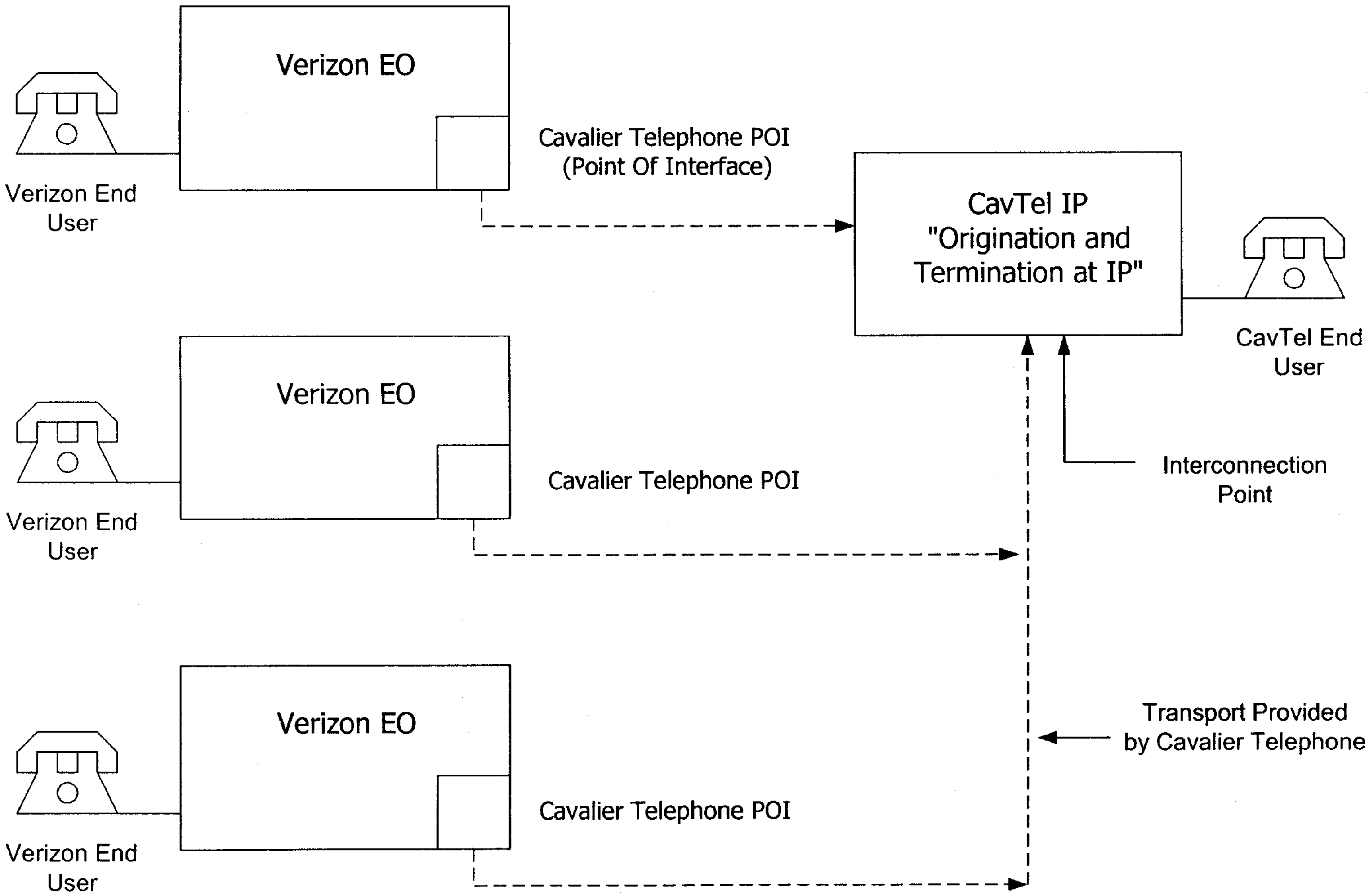
[4] Filed electronically

Evan T. Leo
Scott H. Angstreich
Kellogg, Huber, Hansen, Todd & Evans
1615 M Street, NW, Suite 400
Washington, D.C. 20006

Exhibit A

Cavalier - Verizon Interconnection
POI - IP Transport Provided to Verizon by Cavalier



POI – IP Transport Provided to Verizon by Cavalier
New Jersey

POI	IP	DS1's
Pleasantville	Camden	13
Atlantic City	Camden	2
Blackwood	Camden	1
Cherry Hill	Camden	1
Collingswood	Camden	1
Marlton	Camden	1
Moorestown	Camden	1
Mount Holly	Camden	1
Princeton	Camden	1
Trenton	Camden	2
Vineland	Camden	1
Willingsboro	Camden	1
Total		**26**

Exhibit B

NEW

1.32 "Information Services Traffic" means Local Traffic or IntraLATA Toll Traffic which originates on a Telephone Exchange Service line and which is addressed to an information service provided over a Party's information services platform (e.g., 976).

1.33 "Inside Wire" or "Inside Wiring" means all wire, cable, terminals, hardware and other equipment or materials on the Customer's side of the Rate Demarcation Point.

1.34 "Integrated Digital Loop Carrier" or "IDLC" means a subscriber loop carrier system which integrates within the switch at a DS1 level that is twenty-four (24) loop transmission paths combined into a 1.544 Mbps digital signal.

1.35 "Integrated Services Digital Network" or "ISDN" means a switched network service providing end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN ("BRI-ISDN") provides for digital transmission of two 64 kbps bearer channels and one 16 kbps data and signaling channel (2B+D). Primary Rate Interface-ISDN ("PRI-ISDN") provides for digital transmission of twenty three (23) 64 kbps bearer channels and one (1) 64 kbps data and signaling channel (23 B+D).

1.36 "Intercarrier Compensation" refers to the remuneration received by one Party (the "Receiving Party") to recover its costs for receiving and terminating Local Traffic or receiving and handing off Compensable Internet Traffic that originates on the network of the other Party (the "Originating Party").

1.37 "Interexchange Carrier" or "IXC" means a carrier that provides, directly or indirectly, InterLATA or IntraLATA Telephone Toll Services.

1.38 "Interim Number Portability" or "INP" means the use of existing and available call routing, forwarding, and addressing capabilities (e.g. remote call forwarding) to enable a Customer to receive Telephone Exchange Service provided by any Local Exchange Carrier operating within the exchange area with which the Customer's telephone number(s) is associated, without having to change the telephone number presently assigned to the Customer and regardless of whether the Customer's chosen Local Exchange Carrier is the carrier that originally assigned the number to the Customer.

1.39 "Internet Traffic" means any traffic that is transmitted to or returned from the Internet at any point during the duration of a transmission.

1.40 "IP" or "Interconnection Point" means the point at which a Party who receives traffic originating on the network of the other Party assesses Intercarrier Compensation charges for the further transport and termination of that traffic.

1.41 "Line Side" means an End Office Switch connection that provides transmission, switching and optional features suitable for Customer connection to the public switched network, including loop start supervision, ground start supervision, and signaling for BRI-ISDN service.

the extent that the Parties have already implemented network Interconnection in a LATA at a point that it not geographically relevant (as that term is described above) or another Conectiv IP, then upon BA's request for geographically-relevant Conectiv-IPs, the Parties shall negotiate a mutually acceptable transition process and schedule to implement the geographically-relevant IPs. If Conectiv should fail to establish an IP at an End Office Collocation site pursuant to BA's request, or if the Parties have been unable to agree upon a schedule for completing a transition from existing arrangements to geographically-relevant Conectiv-IPs or to an End Office Collocation site Conectiv-IP within sixty (60) days following BA's request. Conectiv shall bill and BA shall pay the applicable Intercarrier Compensation Rate for the relevant NXX, as set forth in Section 5.7 below, less BA's monthly recurring rate for unbundled dedicated interoffice transport from BA's originating End Office to the Conectiv-IP.

Should Conectiv choose to obtain transport from BA for Local Traffic and Compensable Internet Traffic from a Conectiv-IP at a Collocation site to another Conectiv location, BA shall bill and Conectiv shall pay, the applicable unbundled dedicated interoffice transport and channel termination rates set forth herein.

4.2.3 **Points of Interconnection.** As and to the extent required by Section 251 of the Act, the Parties shall provide Interconnection of their networks at any technically feasible point, as described in Section 4.3. To the extent the originating Party's Point of Interconnection ("POI") is not located at the terminating Party's relevant IP, the originating Party is responsible for transporting its traffic from its POI to the terminating Party's relevant IP.

4.2.4 **Trunking Architecture.** The Originating Party must establish direct trunking to a Receiving Party's End Office (which may have a Tandem-routed overflow) by self-provisioning, purchasing transport rated as unbundled dedicated interoffice transport from the Receiving Party, or purchasing from a third party if the Local Traffic and Compensable Internet Traffic destined for that End Office exceeds the equivalent of two DS1s for any three (3) months during any six (6) month period. For purposes of this paragraph, BA shall satisfy its End Office trunking obligations by handing off traffic to a Conectiv-IP. Should Conectiv fail to comply with this End Office trunking requirement, then the Intercarrier Compensation rate to be paid by Conectiv shall be determined as follows: (a) for direct (non-switched) End Office trunks delivered to BA at the BA Tandem Wire Center that is subtended by the BA End Office serving the Customer location receiving the call, Conectiv shall pay the applicable Intercarrier Compensation rate then in effect pursuant to Section 5.7, plus $.0007 per minute of use; and (b) for Tandem-switched trunks delivered to BA at the BA Tandem Wire Center that is subtended by the relevant BA End Office, Conectiv shall pay the Tandem Office Reciprocal Call Termination Rate as set forth in Exhibit A hereto; provided, however, that in the event Conectiv has properly forecasted and ordered the required trunking from BA and BA has been unable to provision the ordered trunking, Conectiv shall not be obligated to pay the higher Tandem Office rate until BA is able to provide the requested trunking.

Exhibit C

LEASED TRANSPORT FROM VERIZON BY CAVALIER IN DELAWARE

A Loc	Z Loc	Facility Qty – Type	Monthly Charge
Dover	Smyrna	1 - DS3	$ 611.92
Dover	Camden	1 - DS3	$ 520.22
Angola	Georgetown	1 - DS3	$ 651.22
Wrangle Hill	Middletown	7 - DS1's	$2,872.48
Milford	Millsboro	1 - DS1	$ 560.26
Seaford	Millsboro	1 - DS1	$ 674.08